

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SHAMAYRA MADISON, as parent & natural guardian of Z.M., a minor, & in her own right, & MARTIN & TRACEY STEWART,	:	
	:	
Plaintiffs,	:	CIVIL ACTION
v.	:	
	:	
	:	
BETHANNA, INC. d/b/a BETHANNA & CITY OF PHILADELPHIA,	:	NO. 12-01330
	:	
Defendants.	:	
	:	
	:	

ORDER

AND NOW, this 23rd day of May, 2012, upon consideration of Defendant's Motion to Dismiss Plaintiffs' Complaint (Docket No. 3), and Plaintiffs' Response in Opposition (Docket No. 13), it is hereby **ORDERED** that Defendant's Motion is **GRANTED IN PART** and **DENIED IN PART** as follows:

1. Defendant's Motion to Dismiss the Complaint based on a lack of standing is **DENIED**;
2. Defendant's Motion to Dismiss the Complaint in its entirety based on a lack of foundation is **DENIED**;
3. Defendant's Motion to Dismiss all allegations of negligence from the Complaint is **DENIED**;
4. Defendant's Motion to Dismiss all allegations of negligence *per se* from the Complaint is **GRANTED** to the extent such allegations are brought by Plaintiffs Madison and Z.M., but is **DENIED** to the extent such allegations are brought by Plaintiffs the Stewarts;
5. Defendant's Motion to Dismiss all allegations of fraud/intentional misrepresentation

from the Complaint is **DENIED**;

6. Defendant's Motion to Dismiss all allegations of negligent misrepresentation and negligent failure to disclose from the Complaint is **DENIED**;
7. Defendant's Motion to Dismiss all allegations of intentional infliction of emotional distress from the Complaint is **GRANTED** to the extent such allegations are brought by Plaintiffs Madison and Z.M., but is **DENIED** to the extent such allegations are brought by Plaintiffs the Stewarts;
8. Defendant's Motion to Dismiss all allegations of negligent infliction of emotional distress from the Complaint is **GRANTED** to the extent such allegations are brought by Plaintiff Madison, but is **DENIED** to the extent such allegations are brought by Plaintiffs Z.M. and the Stewarts;
9. Defendant's Motion to Dismiss all allegations of recklessness from the Complaint is **DENIED**;
10. Defendant's Motion to Dismiss all allegations sounding in professional liability for failure to file a certificate of merit is **DENIED AS MOOT**;
11. In all future filings, both Plaintiffs and Defendant are instructed to utilize page numbers in their briefing submitted to the Court.

It is so **ORDERED**.

BY THE COURT:

s/ Ronald L. Buckwalter
RONALD L. BUCKWALTER, S.J.